

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

MICHAEL LEYVA,

Plaintiff,

v.

Case No. 2:21-cv-754-SPC-NPM

WAL-MART STORES EAST, LP,

Defendant.

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**REPORT AND RECOMMENDATION**

This matter is before the court on the order directing compliance or to show cause entered on January 14, 2022 (Doc. 19). Local Rule 3.03 directs each party to file an interested persons disclosure with their first appearance. The Civil Action Order (Doc. 7) reminded plaintiff Michael Leyva of this requirement. And on January 6, 2022, the court held a Rule 16(b)(1)(B) conference during which the court required Leyva to file an interested person disclosure using the correct form within one week. (Doc. 15). Leyva failed to do so, thus prompting the court's January 14 order, which directed Leyva to immediately file an interested person disclosure. Alternatively, Leyva could show cause by January 20, 2022, why this case should not be dismissed for failure to comply with court orders. (Doc. 19). After being ordered on three separate occasions to comply with Local Rule 3.03 (Docs. 7, 15,

19), Leyva has still failed to file the required disclosure or respond to the court's latest order.

Pursuant to Local Rule 3.10, "[w]henver it appears that any case is not being diligently prosecuted the Court may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed, and if no satisfactory cause is shown, the case may be dismissed by the Court for want of prosecution." M.D. Fla. R. 3.10; *see also* Fed. R. Civ. P. 16(f)(1)(c); 41(b). Without explanation, despite ample opportunity to provide one, Leyva has repeatedly failed to comply with the court's orders, and it therefore appears he is not diligently prosecuting his case.

Accordingly, it is respectfully **RECOMMENDED** that this action be dismissed for lack of prosecution and for Leyva's repeated failure to comply with court orders; all motions, deadlines and hearings be terminated and cancelled; and the case be closed.

Reported in Fort Myers, Florida, on January 21, 2022.

  
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NICHOLAS P. MIZELL  
UNITED STATES MAGISTRATE JUDGE

### NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections "waives the right to challenge on appeal the district court's

order based on unobjected-to factual and legal conclusions.” *See* 11th Cir. R. 3-1. **To expedite resolution, parties may file a joint notice waiving the 14-day objection period.**